GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0127	**Title:**	Revise out-of-state winery access to Montana retailers
Primary Sponsor:	Wanzenried, David E	**Status:**	As Introduced-Revised

- ☐ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☐ Technical Concerns
- ☑ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Proprietary Fund	$100,040	$87,361	$89,545	$91,784
Revenue:				
General Fund	$285	$55,489	$1,705	($534)
Proprietary Fund	$100,325	$142,850	$91,250	$91,250
Net Impact-General Fund Balance:	$285	$55,489	$1,705	($534)

Description of fiscal Impact: The proposed legislation amends statutory provisions to allow out-of-state wineries to ship directly to licensed retailers. In 2005, the U.S. Supreme Court decided in Granholm v Heald recent that Michigan's and New York's laws that restricted direct shipment of wine to consumers by out-of-state wineries violated the Commerce Clause. This legislation creates a general fund increase in FY 2008 through FY 2010 and a small decrease in FY 2011.

FISCAL ANALYSIS

Assumptions:

1. Under the proposed legislation, out-of-state wineries have the option to directly ship to retailers with a license. Out-of-state wineries apply for a license at the same fee schedule as in-state wineries. The cost of licensing is an initial $400 with an annual $200 renewal fee. Currently, out-of-state wineries can only hold permits to ship to distributors that range in cost from $0-$400 per permit.

2. This fiscal note assumes that all wineries that pay less than $250 for a permit will choose to continue selling wine through to wine distributors with the permit. The wineries that pay more than $250 annually for a permit will choose to become licensed at $400 initially and $200 annual renewal because licensing would be more cost-effective in the long run. As of August 2006, only 31 wineries paid more than $250 for a permit; these 31 wineries paid a total of $12,400 for permits in 2006.
3. The 31 wineries paying more than $250 annually for a permit would choose not to purchase a permit, resulting in revenue losses of $12,400 for each fiscal year. These wineries would instead purchase licenses costing $400 initially and $200 annual renewals. The revenue gains from these wineries purchasing licenses will be $12,400 in FY 2008 and $6,200 for each subsequent fiscal year.
4. The net impact on revenues under this legislation will be $0 in FY 2008 (($12,400) + $12,400), ($6,200) (($12,400) + $6,200) in FY 2009, ($6,200) (($12,400) + $6,200) in FY 2010, and ($6,200) (($12,400) +$6,200) in FY 2011.
5. In addition to these large wineries that would choose to become licensed, it is assumed that 516 small wineries that pay $25 or less for a permit will also choose to become licensed. Under current law, the fee schedule for small wineries is $0 for all wineries shipping less than 60 cases and $25 for all wineries shipping less than 500 cases. Although these wineries will be paying significantly more in fees under the proposed law when compared to current law, these wineries will realize cost savings when shipping directly to their customers, rather than working through a distributor. Shipping through the distributor is significantly more costly than shipping directly for small wineries. The 516 small wineries that currently pay $0 to $25 for a permit will find it more profitable to ship directly to their retailers and will therefore choose to become licensed at a fee of $400 initially and $200 annually. These 516 wineries currently pay only $5,750 in permit fees.
6. This fiscal note assumes that half of the 516 wineries (258 wineries) will become licensed in FY 2008 and half will become licensed in FY 2009. The revenue gained from these wineries will be $100,325 ($400 * 258 – ($5,750/2)) in FY 2008, $149,050 ($400 * 258 + $200 * 258 - $5,750) in FY 2009, and $97,450 ($200 * 516 - $5,750) in FY 2010 and FY 2011.
7. The net revenues from both the small and large wineries will be $100,325 in FY 2008, $142,850 ($149,050 - $6,200) in FY 2009, and $91,250 ($97,450 - $6,200) in FY 2010 and FY 2011.
8. The gain in revenue will be an increase to the proprietary fund for license revenue. After expenditures are taken out of this proprietary fund, it is transferred to the general fund as revenue. This legislation will result in an increase to the general fund for FY 2009 though FY 2010 and a decrease in FY 2011.
9. Administrative costs necessary to implement this legislation include 2.00 FTE for licensing compliance specialists. This legislation requires the reporting of direct shipments to retailers both from the shipper and from the retailer. These FTE are necessary for the processing and enforcement of this reporting.
10. Because the administrative costs and general fund impact are a result of a court decision, they have been included in the Department of Revenue's budget proposal. In other words, the fiscal impact shown in this fiscal note has already been accounted for in the budget proposal and are not to be considered costs in addition to the budget proposal.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
FTE	2.00	2.00	2.00	2.00
Expenditures:				
Personal Services	$77,682	$77,757	$79,701	$81,693
Operating Expenses	$22,358	$9,604	$9,844	$10,090
TOTAL Expenditures	$100,040	$87,361	$89,545	$91,784
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
Proprietary Fund (06)	$100,040	$87,361	$89,545	$91,784
TOTAL Funding of Exp.	$100,040	$87,361	$89,545	$91,784
Revenues:				
General Fund (01)	$285	$55,489	$1,705	($534)
Proprietary Fund (06)	$100,325	$142,850	$91,250	$91,250
TOTAL Revenues	$100,610	$198,339	$92,955	$90,716
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$285	$55,489	$1,705	($534)
Proprietary Fund (06)	$285	$55,489	$1,705	($534)

Sponsor's Initials *Date* *Budget Director's Initials* *Date*